

Internal Revenue Service

Department of the Treasury

District
Director

915 Second Ave., Seattle, Wash. 98174

Person to Contact:

Telephone Number:

Refer Reply to:

Date:

DEC 7 1982

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954.

The information submitted discloses that you were incorporated under the nonprofit corporation laws of the State of [REDACTED] on [REDACTED].

Your Articles of Incorporation provide, in part, that your purposes are:

To acquire, hold, own and maintain and operate both real and personal property to be used as recreational areas and/or aesthetic enhancement for the benefit of the owners of real property within said area which has been platted as [REDACTED], Divisions 1 and 2 and such additional divisions as are subsequently platted and recorded by the developer and located contiguous to Divisions 1 and 2.

To enforce the conditions, restrictions, changes and restrictive covenants at any time created for the benefit of [REDACTED], and the owners thereof, or to which said property or any part thereof may at any time be subject, and to pay the expenses incident to the enforcement of the same, and the collection of said charges and, the enforcement of all the restrictive covenants applicable to the plats of [REDACTED] of which said properties are an integral part.

To pay all real and personal property taxes and assessments which may be levied by any municipal or other governmental authority upon the streets and parks now or hereafter opened, laid out, or established, and other open spaces maintained and acquired for the general use of the owners of lots for building sites, within said property or any improvements thereon.

To maintain and operate a system of lights upon the streets and common area of the development.

To fix the rate per lot, the annual charges or assessments to which said property may be made subject in accordance with any declaration of restrictions applicable thereto, and to receive and collect such annual charges or assessments or enforce any liens which may be provided to secure the payment of the same.

To expend the money so collected, received, or derived from said annual charges or assessments in paying and discharging the cost, expenses and obligations incurred by this corporation.

You state that the Association will collect annual dues from community lot owners to pay for street lighting and to maintain a liability insurance policy on common areas of the community.

Section 501(c)(3) of the Code provides for the exemption of organizations which are organized and operated exclusively for religious, charitable, and educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations states that in order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in that section. If any organization fails to meet either the organizational or operational test, it is not exempt.

Section 1.501(c)(3)-1(b)(1)(i) of the regulations provides that an organization is organized exclusively for one or more exempt purposes only if its articles of organization limit its purposes to one or more exempt purposes under section 501(c)(3) of the Code.

Section 1.501(c)(3)-1(b)(1) of the regulations provides that an organization is not "organized exclusively" for one or more exempt purposes if its articles of organization expressly empower it to carry on, other than as an insubstantial part of its activities, activities which are not in furtherance of one or more exempt purposes.

Section 1.501(c)(3)-1(c)(1) of the regulations states that an organization will be regarded as "operated exclusively" for one or more exempt purposes when it engages primarily in activities which accomplish one or more of the exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations provides, in part, that an organization is not organized and operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest.

[REDACTED]

The language contained in your Articles of Incorporation does not clearly limit your purposes and activities to exclusively 501(c)(3) purposes and activities. Nor do your Articles of Incorporation provide that your assets will be permanently dedicated to one or more exempt purposes described in section 501(c)(3). Therefore, you do not meet the organizational test requirement of section 1.501(c)(3) - 1(b) of the regulations.

In addition, your activities do not further any of the purposes set forth in section 501(c)(3) of the Code. You are serving the private interests of your members rather the public interest. Therefore, we conclude that you are not operated exclusively for one or more exempt purposes, as required by section 1.501(c)(3)-1(c)(1) of the regulations.

We are not ruling on your qualification for exemption under any related paragraph of Internal Revenue Code 501(c).

Accordingly, it is held that you are not entitled to recognition of exemption from Federal income tax under section 501(c)(3) of the Code. You are required to file Federal income tax returns on Form 1120 for each year you have been in existence.

Contributions to you are not deductible under section 170 of the Code.

If you accept our findings, you do not need to take further action.

If you do not accept our findings, we recommend that you request a conference with the Office of Regional Director of Appeals. Your request for a conference should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a conference. The conference may be held at our Regional office or, if you request, at any mutually convenient District office.

If we do not hear from you within 30 days from the date of this letter, this ruling will become final. If you have any questions, please contact the person whose name and telephone number are shown above.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

[REDACTED]

A copy of this letter is being sent to appropriate State officials in accordance with Internal Revenue Code section 6104(c).

Sincerely yours,

[REDACTED]
District Director

Enclosure
Publication 892

cc: [REDACTED]